

### **REMARKS / DISCUSSION OF ISSUES**

Claims 1, 2, 4 – 9, 11 – 18 and 21 – 26 are pending in the application.

In the present amendment, claims 1, 8 and 15 – 17 are amended. The support for the claim amendments may be found in Applicant's specification, page 14, lines 8 – 10.

#### **35 U.S.C. 103**

Under 35 U.S.C. 103(a) the Office Action rejects claims 1 – 2, 4 – 9 and 11 – 16 over Herz, (U.S. Pat # 5,758,257), in view of Shapira, (U.S. Pat # 7,085,806) and Kim, (U.S. PG-PUB 2003/0156134); claims 17, 18 and 23 over Herz, in view of Cook, (U.S. PG-PUB 2003/0193504); and claims 21, 22 and 24 – 26 over Herz & Massey, and further in view of Shapira.

Applicant submits that for at least the following reasons, claims 1 – 2, 4 – 9 and 11 – 16 are patentable over Herz, Shapira, and Kim, either singly or in combination.

For example, claim 1, in part, requires:

*“learning and reflecting personal knowledge about the user and reporting affirmatively by the profiled celebrity the recommendation to the user through an image of the celebrity while simultaneously displaying the image of the celebrity to create an appearance during the reporting that the celebrity is making a personal recommendation to the user.”*

In the Office Action, page 6, it is conceded by the Office that Herz does not discuss any images associated with a celebrity or any other profile, and that Shapira does not discuss reporting the recommendation from the vantage point of creating an appearance during the reporting that the celebrity is making a personal recommendation to the user, as claimed. Because of these deficiencies in Herz and Shapira, the Office cited Kim, which apparently relates to organizational avatars used in on-line services.

Applicant submits that Kim, paragraph [0084], discloses that an organization avatar may recommend menu items to customers. However, nothing in Kim teaches or suggests that the avatar learns or reflects any personal knowledge about the customers and therefore does not create the same kind of appearance during the reporting that the celebrity is making a personal recommendation to the user, as claimed.

In the Office Action, page 3, it is argued by the Office that if the celebrity mentions the viewer by name and said something to the effect, "<Sarah>, I really believe that you will enjoy these movies, because they are very similar to what you told me were your favorites" would be interpreted that the celebrity is making a personal recommendation. The Office argued that such a colloquy is well within the scope of Kim. Applicant respectfully disagrees.

Although Kim, paragraph [0065], discloses that the appearance of the avatar can be adjusted by software, the scope of Kim should not be without limits. The best source to determine the scope of Kim is from the specification of Kim. Kim only mentions the menu recommendation in paragraph [0084], but nowhere in Kim does it disclose any learning and reflecting personal knowledge about the user. The menu recommendation in Kim is not associated with any personal knowledge about the user. Applicant respectfully submits that Kim does not teach or suggest any colloquy being something to the effect, "<Sarah>, I really believe that you will enjoy these movies, because they are very similar to what you told me were your favorites." Furthermore, in the Office Action, page 4, it is conceded by the Office that the avatar in Kim does not learn any personal knowledge about the user. Since the avatar in Kim does not learn or reflect personal knowledge about the user, the menu recommendation made by the avatar does not create the same kind of appearance that the celebrity is making a personal recommendation, as claimed. Therefore, Kim fails to disclose the claimed feature: learning and reflecting personal knowledge about the user and reporting affirmatively by the profiled celebrity the recommendation to the user through an image of the celebrity while simultaneously

displaying the image of the celebrity to create an appearance during the reporting that the celebrity is making a personal recommendation to the user.

In view of at least the foregoing, Applicant submits that claim 1 is patentable over Herz, Shapira and Kim, either singly or in combination.

Similarly, independent claim 8, in part, requires:

*“reporting means for the lifestyle recommendation device learning and reflecting personal knowledge about the user and affirmatively announcing by the profiled celebrity the recommendation to the user through an image of the celebrity while simultaneously displaying the image of the celebrity to create an appearance during the reporting that the celebrity is making a personal recommendation to the user through the lifestyle recommendation device.”*

Also, independent claim 15 requires:

*“the lifestyle recommendation machine learning and reflecting personal knowledge about the user and affirmatively reporting by the profiled celebrity the recommendation to the user through an announcement by the celebrity while simultaneously displaying an image of the celebrity to create an appearance that the celebrity is making a personal recommendation to the user through the lifestyle recommendation machine.”*

Furthermore, independent claim 16 requires:

*“computer readable program code means for learning and reflecting personal knowledge about the user and affirmatively reporting by the profiled celebrity the recommendation to the user through a still image of the celebrity while simultaneously displaying the still image of the celebrity to create an appearance that the celebrity is making a personal recommendation to the user through the lifestyle recommendation machine.”*

Applicant essentially repeats the above arguments for claim 1 and applies them to claims 8, 15 and 16 pointing out why Herz, Shapira and Kim, either singly or in combination fail to disclose the above claimed features. Therefore, claims 8, 15 and 16 are patentable over Herz, Shapira and Kim, alone or in combination.

Dependent claims 2, 4 – 9 and 11 – 14 are also patentable because at least they respectively depend from claims 1 and 8, with each claim containing further distinguishing features.

Applicant further submits that for at least the following reasons claims 17 – 18 and 21 – 26 are patentable over Herz, Shapira and Cook, alone or in combination.

For example, independent claim 17, in part, requires:

*“learning and reflecting personal knowledge about the user and affirmatively reporting by the profiled synthetic celebrity or fictitious character the recommendation to the user through the synthetic celebrity or fictitious character to create an appearance during the reporting that the synthetic celebrity or fictitious character is making a personal recommendation to the user.”*

Applicant basically repeats similar arguments as above for claim 1 and applies them to claim 17 pointing out why Herz and Shapira, alone or in combination fail to disclose the above claimed features. Furthermore, Applicant submits that none of the secondary cited references can in any way cure the defects pointed out above with respect to Herz and Shapira. This is because although they disclose the use of a synthetic celebrity or fictitious character, none of them teach or even suggest any learning, reflecting or reporting from the vantage point of creating an appearance during the reporting that the synthetic celebrity or fictitious character is making a personal recommendation to the user, as claimed. Therefore, claim 17 is patentable. Claims 18 and 21 – 26 are also patentable because at least they depend from claim 17, with each claim containing further distinguishing features.

Withdrawal of the rejection of claims 1, 2, 4 – 9, 11 – 18 and 21 – 26 under 35 U.S.C. §103(a) is respectfully requested.

**Conclusion**

In view of the foregoing, Applicants respectfully request that the Examiner withdraw the objection(s) and/or rejection(s) of record, allow all the pending claims, and find the application in condition for allowance. If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

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